

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

PR Docket no.  
92-136

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AUG 26 1992

Federal Communications Commission  
Office of the Secretary

Honorable Gerry E. Studds  
House of Representatives  
2365 Rayburn House Office Building  
Washington, D.C. 20515-3521

Dear Congressman Studds:

Thank you for your inquiry regarding the letters from your constituent,  
Lloyd S. Montcalm, about amateur radio operations and common carrier functions.

Our Private Radio Bureau has been in regular contact with Mr. Montcalm about his concerns. In addition, the Commission released a July 2, 1992 Notice of Proposed Rule Making regarding the "Scope of Permissible Communications in the Amateur Service." The comment period for that proceeding runs through October 1, 1992. Since Mr. Montcalm's concerns pertain to the substance of that proceeding, we have submitted his letters to the Private Radio Bureau to be included in the public comment file on that proceeding. A copy of the Notice of Proposed Rule Making is also enclosed.

We have no record of domestic or international common carriers registering concerns of the nature raised by Mr. Montcalm. However, it is possible that such carriers will take the opportunity to submit comments to our pending proceeding on permissible communications.

Sincerely,

Cheryl A. Tritt  
Chief, Common Carrier Bureau

Enclosure

No. of Copies rec'd  
LMA BODE

July 16, 1992

Mr. George S. Li  
International Facilities Division  
Federal Communications Commission  
Room 534 - Mail stop Code 1600I  
1919 M Street NW  
Washington, DC 20554

INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

JUL 20 1992

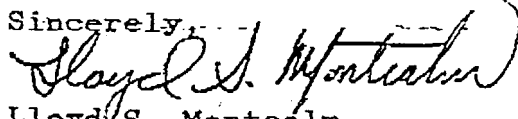
Dear Mr. Li:

The following is in reference to our telecon of 7/16, regarding the provision of domestic and international toll free telephone service to the general public and amateur radio operators.

Attached you will find a copy of my letter to Mrs. Cherly Tritt - Chief FCC Common Carrier Bureau. The letter speaks for itself. All I am requesting is an answer to the questions raised in my letter. For some unexplained reason, no one can find the original or even a copy of this letter within the Common Carrier Bureau - even though it was sent certified mail and signed for by an FCC employee!

I would appreciate it very much if you would be kind enough to review my correspondence and have it properly answered by the appropriate FCC official with deliberate speed and alacrity.

Sincerely,



Lloyd S. Montcalm  
93 Arbor Way  
Hyannis, MA 02601

Tel: (508) 771-0942

INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

JUL 20 1992

INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

JUL 20 1992

May 21, 1992

Mrs. Cheryl Tritt  
Chief - FCC Common Carrier Bureau  
1919 M. Street NW  
Washington, DC 20554

INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

JUL 20 1992

Dear Mrs. Tritt:

We would appreciate it very much if you would provide us with the Common Carrier Bureau's response to the following request/questions.

We are planning to offer the general public and the amateur radio community "toll free" domestic and international telephone service via phone patching on amateur radio frequencies. Simply put, I and other amateur radio operators (located in the U.S., the Caribbean, Central and South America, and Mexico) will interconnect our amateur radio transmitters/receivers via phone patching equipment to our respective local common carrier telephone network facilities for the purpose of providing "toll free" telephone service on a domestic and international basis.

Using the telephone interconnect feature with our amateur radio allows us to replace the "tariffed toll sensitive" long distance/international common carrier telephone and high seas marine commercial radio facilities with our "toll free" amateur radio network communication frequencies. The net result is that the users of our phone patch service will experience significant savings that will average, at a minimum, approximately \$23.00 on each international phone call, and \$52.00 on each high seas marine telephone call. Obviously, the common carrier revenues will be appreciatively reduced through the use of this "toll free service".

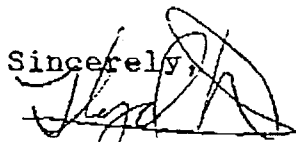
Now comes the big questions. First, under U.S.C. 47, can we legally advertise this service. For example: running ads in newspapers, magazines, and through broadcasting or solicitation of this "toll free" service on amateur radio frequencies. etc. Please explain the answer to this question in full detail. Second, under U.S.C. 47, can we legally provide this service to the general public and to the amateur radio community? Please explain the answer to this question in full detail. Third, under U.S.C. 47, do we need to file and receive approval for a special tariff for this toll free service offering? Please explain the answer to this question in full detail. And finally, under U.S.C. 47, can the U.S. and other International Country Common Carriers legally stop us from interconnecting their respective local telephone facilities to our amateur radio equipment for the purpose of providing the general public with "toll free" long distance/international telephone and high seas telephone service? Please explain the answer to this question in full detail.

Kindly be advised that "toll free" telephone services very similar to the one we have elaborated on are currently being provided over amateur radio frequencies on a 24 hour, 7 days a week basis by organized phone patch networks and religious organizations.

If in the event that our "toll free" communications service offering meets the initial approval of the Common Carrier Bureau, kindly forward me the appropriate number of copies of FCC form 214; Facilitation Authorization Application, so that we may seek fully authorized approval of this service offering.

Thank you in advance for your prompt attention in providing us with clear and concise information regarding this matter.

Sincerely,



Lloyd S. Montcalm  
93 Arbor Way  
Hyannis, MA 02601

CC: Congressman Gerry E. Studds  
Congressman Edward J. Markey

JUN 02 1992

May 27, 1992

Mrs. Cheryl Tritt  
Chief - FCC Common Carrier Bureau  
1919 M. Street NW  
Washington, DC 20554

Dear Mrs. Tritt:

I am writing to you regarding the attached letter from David Sumner, Executive Vice President of the American Radio Relay League, Incorporated (ARRL).

Mrs. Tritt, since when did the Federal Government give the ARRL the authority to act on behalf of the FCC Common Carrier Bureau? The ARRL is apparently doing this by implying to amateur radio operators (see attached letter) that in essence, it is okay to compete with the commercial long-distance communications carriers by using their respective proprietary communications equipment interconnected (hard wired) with the common carrier facilities in order to provide toll free telephone services at the expense of domestic and international common carriers? This is absurd! The majority of phone patching taking place on amateur radio today is for one purpose and one purpose only - to avoid paying for the long distance, and or the international tolls - this is obvious to the most casual listener/observer!

I was not aware that one could just go ahead and interconnect his/her proprietary communications equipment to any common carrier telephone facility for the purpose of providing domestic and international toll free telephone services to third parties. Am I not correct in stating that one must first apply for and receive approval for a special tariff under the provisions of U.S.C. 47 in order to legally be a provider of such toll free commercial telephone service? If this is the case, why then are these non-tariffed commercial toll free telephone services being allowed to be provided to third parties on a 24 hour a day, 7 day a week basis on our non-commercial amateur radio frequencies without being properly tariffed?

It is interesting to note that for the most part, these commercial non-tariffed telephone services are being offered to third parties daily by organized phone patching networks. This is being accomplished through the substitution of domestic and international tariffed long distance common carrier toll networks by non-tariffed amateur radio network/radio links interconnected to common carrier local facilities.

Let me point out that to my knowledge, there are no special third party traffic agreements in existence that authorizes amateur radio operators to use their radio equipment in the manner as described. As a matter of record most, if not all, third party agreements contain the following paragraph (this is extracted from Panama's third party agreement - TIAS 3617) "2. Such communications shall be limited to conversations or messages of a technical or personal nature for which, by reason of their slight importance, use of the public telecommunication services is not justified. In cases where, owing to disasters, the public telecommunications services are not available for the expeditious transmission of communications relating to safety of life or property, such communications may be transmitted by amateur stations of the respective countries".

Now let me ask you, Mrs. Tritt, if "Use of the public telecommunication services is not justified", why is it that the ARRL is encouraging radio amateurs to compete with the long distance telephone services by using proprietary amateur radio communications equipment, interconnected to the common carrier for the provision of toll free telephone services? FCC part 97, specifically 97.113(a) states "section 97.113 of the Commissions rules, 47 C.F.R. 97.113(a), prohibits an amateur station licensed by the FCC from transmitting any communications the purpose of which is to facilitate the business or commercial affairs of any party, and from transmitting any communications as an alternative to the broadcast, common carrier, maritime, land mobile, or any other authorized radio service."

It is worthy to note that Article 32 of the International Radio Regulations state that one cannot provide these types of communications between international countries unless special arrangements between the administrations of the countries concerned have been agreed to. As stated previously, to my knowledge, there are no such special third party arrangements in existence that allow these types of non-tariffed telephone services to be offered on amateur radio frequencies. If you know of any, kindly provide me a copy of such.


Mrs. Tritt, I am very much aware that "long-distance communications services are no longer a monopoly". I was not aware however, that the Federal Communications Commission has given permission to amateur radio operators, or for that matter, anyone else to interconnect their proprietary communications hardware to a common carrier(s) local facility(s) for the provision of non-tariffed toll free domestic and international telephone and high seas marine communications service to third parties.

Apparently the ARRL believes that "public policy has changed rather dramatically" to the extent that one may legally compete with the common carriers by using amateur radio as an alternate to the commercial phone service without being properly tariffed. Apparently they believe that it's okay to interconnect ones proprietary communications equipment to a local Telco facility in order to bypass the long distance and international toll sensitive telephone networks in order to provide or take advantage of toll free service. I guess that the ARRL really believes that the aforementioned non-tariffed telephonic service is legal, because their statement that: "long-distance communications services are no longer a monopoly, and both competition and the use of alternative services are actively encouraged" substantiates their belief!

I would very much appreciate your input regarding the legality of the provision of non-tariffed toll free domestic and international telephone and high seas commercial communications services to third parties by organized amateur radio phone patch networks. Are they not in violation of U.S.C. 47, FCC part 97 and Article 32 of the International Rules and Regulations?

Thank you in advance for your prompt reply regarding this matter.

Sincerely,

  
Lloyd S. Montcalm  
93 Arbor Way  
Hyannis, MA 02601

CC: Congressman Gerry E. Studds  
Congressman Edward J. Markey

A. Sykes - Chairman, FCC Commissioner  
R. Haller - Chief, FCC Private Radio Bureau  
D. Sumner - Executive Vice President, ARRL